

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In re REFCO, INC. SECURITIES LITIGATION

No. 07-md-1902 (JSR)

This Document Relates To:

KENNETH M. KRYS, et al.,

Plaintiffs,

No. 11-cv-1486 (JSR)

-against-

SCHULTE ROTH & ZABEL LLP,

Defendant.

**DECLARATION OF  
SCOTT S. BALBER**

SCOTT S. BALBER hereby declares under penalty of perjury, pursuant to 28 U.S.C.

§ 1746, as follows:

1. I am a partner of the law firm of Chadbourne & Parke LLP, attorneys for Defendant Schulte Roth & Zabel LLP (“SRZ”). I make this declaration in support of SRZ’s Objections to the Report and Recommendation of the Special Master on Its Motion to Dismiss.
2. Attached hereto as Exhibit 1 is a true and correct copy of the Complaint in this action, dated March 22, 2011.
3. Attached hereto as Exhibit 2 is a true and correct copy of the Report and Recommendation of the Special Master on Motion to Dismiss, dated April 9, 2012.
4. Attached hereto as Exhibit 3 is a true and correct copy of the Stipulation of Voluntary Dismissal with Prejudice, dated April 17, 2012.

5. Attached hereto as Exhibit 4 is a true and correct copy of the amended complaint in the matter Krys v. Sugrue, Nos. 08-cv-3086, 08-cv-3065 (S.D.N.Y.).

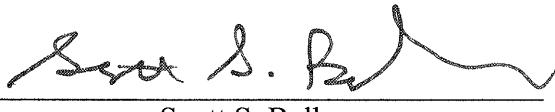
6. Attached hereto as Exhibit 5 is a true and correct copy of a letter from Kenneth S. Gerstein of SRZ to Patrick McMahon of PlusFunds, dated October 31, 2005.

7. Attached hereto as Exhibit 6 is a true and correct copy of the Temporary Restraining Order under 11 U.S.C. § 105 and Federal Rule of Bankruptcy Procedure 7065(B), Order of Attachment under Federal Rule of Bankruptcy Procedure 7064 and Order Imposing Expedited Proceedings under Bankruptcy Rule 9006, dated December 16, 2005, in the matter Official Committee of Unsecured Creditors of Refco Inc. v. SPhinX Managed Futures Fund SPC, Adv. Pro. No. 05-3331 (RDD) (Bankr. S.D.N.Y.).

8. Attached hereto as Exhibit 7 is a true and correct copy of the Memorandum of Law in Support of Defendant's Motion to Dismiss the Complaint, dated May 4, 2011.

9. Attached hereto as Exhibit 8 is a true and correct copy of the Transcript of Oral Argument, dated June 14, 2011.

Dated: New York, New York  
May 4, 2012



\_\_\_\_\_  
Scott S. Balber